



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

September 15, 1998

Mr. John D. Armstrong  
Assistant City Attorney  
City of La Porte  
702 W. Fairmont Parkway  
La Porte, Texas 77572-1218

OR98-2184

Dear Mr. Armstrong:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 118026.

The City of La Porte (the "city") received two requests for information with regard to citation # 98-10431 issued to the requestor. You claim that the requested information is excepted from disclosure under section 552.103 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.103(a) applies to information:

(1) relating to litigation of a civil or criminal nature or settlement negotiations, to which the state or a political subdivision is or may be a party or to which an officer or employee of the state or a political subdivision, as a consequence of the person's office or employment, is or may be a party; and

(2) that the attorney general or the attorney of the political subdivision has determined should be withheld from public inspection.

To show that section 552.103 is applicable, the city must demonstrate that (1) litigation is pending or reasonably anticipated and (2) the information at issue is related to that litigation. *Heard v. Houston Post Co.*, 684 S.W.2d 210, 212 (Tex. App.--Houston [1st Dist.] 1984, writ ref'd n.r.e.); Open Records Decision No. 551 at 4 (1990). A review of the information indicates that the requestor's case 98-10431 is set for hearing and that the requested information relates to the pending litigation. We therefore conclude that the city may withhold the information pursuant to section 552.103 of the Government Code from the defendant until such time that all litigation pertaining to the municipal citation has otherwise concluded. Of course, once information has been obtained by all parties to the litigation

through discovery or otherwise, or the litigation has ended, no section 552.103 interest exists with respect to that information.<sup>1</sup> Open Records Decision Nos. 349 (1982), 320 (1982). Additionally, we note that once a document is filed with the court, it has become a public record and may not now be withheld. *Star-Telegram, Inc. V. Walker*, 834 S.W.2d 54 (Tex.1992).

We caution however, that some of the information may be confidential by law. Thus, if the city receives a request in the future, at a time when litigation is no longer reasonable anticipated or pending, the city should seek a ruling from this office before releasing any of the request information. See Gov't code 552.352 (distribution of confidential information may constitute criminal offense).

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Yours very truly,



Janet V. Monteros  
Assistant Attorney General  
Open Records Division

JIM/nc

Ref.: ID# 118026

Enclosures: Submitted documents

cc: Mr. Winston Stuart Churchill  
P.O. Box 297  
Coleman, Texas 33521  
(w/o enclosures)

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<sup>1</sup>Additionally, we note that section 552.103 may not be invoked to except front page offense report information, even where it is relevant to pending litigation, if the information has already been made available to the defendant in criminal litigation.